

Daniel DiCicco, OSB # 073730
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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

STAY FROSTY ENTERPRISES LLC, an Oregon
Limited Liability Company,

Case No. 3:18-cv-00283-SB

Plaintiff,

DECLARATION OF DANIEL DICICCO

v.

AMAZON.COM, INC et al

Defendant.

Under penalty of perjury I affirm that the following is true to the best of my knowledge and belief:

1. I am the attorney for Stay Frosty and pursuant to FRCP 56(d), by this declaration I affirm that I cannot fully justify my opposition to SunFrog's motion for summary judgment without first taking discovery.
2. The complete scope of the discovery I intend to take from SunFrog includes analysis of their web traffic, marketing channels, usage of Stay Frosty's art in contexts other than offering it for sale (such as in advertising other products and in providing features to other users), the timeliness of SunFrog's responsiveness

to takedown requests, SunFrog's revenue, SunFrog's anti-infringement efforts and their efficacy, and more.

3. Although I believe that SunFrog has effectively pled itself out of court with its most recent motion, to the extent that SunFrog can survive, we believe proper discovery will lead to a fair adjudication of this case and allow us to overcome any of the affirmative defenses raised by SunFrog.

Respectfully Submitted by:

Dated February 15, 2019

/s/ Daniel DiCicco

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